

Department of Defense, OPM

§ 9901.301

binding on all administrative, certifying, payroll, disbursing, and accounting offices within DoD.

(d) *Cancellation.* (1) An employee or representative may cancel an appeal at any time before DoD issues a decision by providing written notification to the DoD deciding official.

(2) DoD may cancel an appeal if any of the following occur:

(i) The employee, or his or her representative, does not furnish requested information within the required time period;

(ii) The employee is no longer officially assigned to, or is removed from, the position and there is no entitlement to retroactive benefits;

(iii) The duties and responsibilities of the position are significantly changed while the case is pending and there is no entitlement to retroactive benefits; or

(iv) The position is abolished and there is no entitlement to retroactive benefits.

§ 9901.224 Appeal to OPM for review of classification decisions.

(a) An employee's request for OPM review of DoD classification determination will follow the procedures in 5 CFR part 511, subpart F—Classification Appeals.

(b) Effective dates of OPM classification appeal decisions will be consistent with 5 CFR 511.702.

(c) Employee appeals to OPM may be submitted directly to OPM.

(d) OPM's final determination on an appeal made under this section is not subject to further review or appeal.

TRANSITIONAL PROVISIONS

§ 9901.231 Conversion of positions and employees to NSPS classification system.

(a) *Introduction.* This section describes the transitional provisions that apply when DoD positions and employees initially are converted to a classification system established under this subpart. (See § 9901.371 for conversion rules related to setting an employee's pay.) Positions and employees in affected organizational or functional units may convert from the GS system, the SL/ST system, the SES system, or such other DoD systems as may be des-

ignated by the Secretary, as provided in § 9901.202. For the purpose of this part, the terms “convert,” “converted,” “converting,” and “conversion” refer to positions and employees that become covered by the NSPS classification system as a result of a coverage determination made under § 9901.102(b) and excludes employees who move from a noncovered position to a position already covered by NSPS.

(b) *Implementing issuances.* The Secretary will issue implementing issuances prescribing policies and procedures for converting DoD employees to a pay band upon initial implementation of the NSPS classification system. Those issuances will establish the work level conversion tables used to place an employee in a pay band based on the level of work of the employee's position in the formerly applicable pay system.

(c) *Temporary promotion prior to conversion.* An employee on a temporary promotion at the time of conversion will be returned to his or her official position of record prior to processing the conversion. That official position of record (including occupational series and grade) is used in determining the employee's career group, pay schedule, and band upon conversion.

(d) *Grade retention prior to conversion.* For an employee who is entitled to grade retention immediately before conversion, the grade of the actual position of record (not the grade being retained) is used in determining the employee's band upon conversion.

Subpart C—Pay and Pay Administration

GENERAL

§ 9901.301 Purpose.

(a) This subpart contains regulations establishing pay structures and pay administration rules for covered DoD employees to replace the pay structures and pay administration rules established under 5 U.S.C. chapter 53 and 5 U.S.C. chapter 55, subchapter V, as authorized by 5 U.S.C. 9902 (subject to the limitations on waivers in § 9901.303).

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Various features that link pay to employees' performance ratings are designed to promote a high-performance culture within DoD.

(b) Any pay system prescribed under this subpart will be established in conjunction with the classification system described in subpart B of this part.

(c) Any pay system prescribed under this subpart will be established in conjunction with the performance management system described in subpart D of this part.

§ 9901.302 Coverage.

(a) This subpart applies to eligible DoD employees and positions in the categories listed in paragraph (b) of this section, subject to a determination by the Secretary under § 9901.102(b) or (f).

(b) The following employees of, or positions in, DoD organizational and functional units are eligible for coverage under this subpart:

(1) Employees and positions who would otherwise be covered by the General Schedule pay system established under 5 U.S.C. chapter 53, subchapter III;

(2) Employees in senior-level (SL) and scientific or professional (ST) positions who would otherwise be covered by 5 U.S.C. 5376;

(3) Members of the Senior Executive Service (SES) who would otherwise be covered by 5 U.S.C. chapter 53, subchapter VIII, subject to § 9901.102(d); and

(4) Such others designated by the Secretary as DoD may be authorized to include under 5 U.S.C. 9902.

§ 9901.303 Waivers.

(a) When a specified category of employees is covered under this subpart—

(1) The provisions of 5 U.S.C. chapter 53 are waived with respect to that category of employees, except as provided in § 9901.106 and paragraphs (b) and (c) of this section; and

(2) The provisions of 5 U.S.C. chapter 55, subchapter V (except sections 5544 and 5545b), are waived with respect to that category of employees to the extent that those employees are covered by alternative premium pay provisions established by the Secretary under §§ 9901.361 through 9901.364 in lieu of the

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provisions in 5 U.S.C. chapter 55, subchapter V.

(b) The following provisions of 5 U.S.C. chapter 53 are not waived:

(1) Sections 5311 through 5318, dealing with Executive Schedule positions;

(2) Sections 5341 through 5349, dealing with prevailing rate systems;

(3) Section 5371, insofar as it authorizes OPM to apply the provisions of 38 U.S.C. chapter 74 to DoD employees in health care positions covered by section 5371 in lieu of any NSPS classification and pay system established under this part or the following provisions of title 5, U.S. Code: chapters 51, 53, and 61, and subchapter V of chapter 55. The reference to “chapter 51” in section 5371(c) is deemed to include a classification system established under subpart B of this part; and

(4) Section 5377, dealing with the critical pay authority.

(c) Section 5379 continues to apply but is modified to allow the Secretary to modify the minimum service period and the limitations on the amount of student loan benefits in order to address critical hiring needs, subject to § 9901.105.

§ 9901.304 Definitions.

In this subpart:

Adjusted salary means an NSPS employee's base salary plus any local market supplement paid to that employee. For an employee moving into NSPS from a non-NSPS position, *adjusted salary* also refers to non-NSPS base salary plus any applicable locality pay under 5 U.S.C. 5304, special rate supplement under 5 U.S.C. 5305, or any equivalent supplement.

Band has the meaning given that term in § 9901.103.

Base salary means an NSPS employee's pay, as set by the authorized management official, before deductions and exclusive of additional pay of any kind (e.g., local market supplement). For an employee moving into NSPS from a non-NSPS position, *base salary* also refers to non-NSPS pay, before deductions and exclusive of additional pay of any kind (e.g., locality pay or a special rate supplement).

Basic pay has the meaning given that term in § 9901.103.